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# In the Supreme Court
OF THE
# United States

OCTOBER TERM, 1982

MEMBERS OF THE CITY COUNCIL OF THE CITY OF LOS ANGELES; THE CITY OF LOS ANGELES; and EDWARD D. LONGLEY, as Director of the Bureau of Street Maintenance,
*Appellants,*

vs.

TAXPAYERS FOR VINCENT, an unincorporated political association; and CANDIDATES' OUTDOOR GRAPHIC SERVICE (COGS), a California Corporation,
*Appellees.*

**On Appeal From The U.S. Court of Appeals For the Ninth Circuit**

## BRIEF OF AMICUS CURIAE CITY OF ANTIOCH IN SUPPORT OF JURISDICTIONAL STATEMENT

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December, 1982

BOWNE OF SAN FRANCISCO, INC. • 190 NINTH ST. • S.F., CA 94103 • (415) 864-2500

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## BRIEF OF AMICUS CURIAE CITY OF ANTIOCH IN SUPPORT OF JURISDICTIONAL STATEMENT

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The City of Antioch, a political subdivision of the State of California, files this *amicus curiae* brief pursuant to Rule 42(4) in support of Los Angeles' Jurisdictional Statement.

## INTEREST OF AMICUS CURIAE

Antioch's municipal ordinance contains a provision regarding the posting of signs upon public property which is virtually identical to the Los Angeles provision struck down by the Ninth Circuit opinion. This particular issue is of compelling interest and importance to Antioch and to many other cities. The Board of Directors of the League of California Cities, which represents 432 municipalities, requested Antioch to file this Brief. If a hearing is granted, many cities are expected to add their names. When this issue was presented to the California appellate courts, 48 cities joined in an *amicus curiae* brief supporting the position now espoused by Los Angeles.[1] The prohibition of signs on public property is a common provision enacted by many cities in California and elsewhere in the nation.[2]

## ARGUMENT

The Ninth Circuit opinion creates a direct conflict of authority on an important Constitutional question, and it is highly desirable for this Court to resolve the issue.

The opinion is directly contrary to *Sussli v. City of San Mateo* (1981) 120 Cal.App.3d 1, cert. denied 70 L.Ed.2d 621. Cities are therefore in the untenable position of being able to enforce their ordinances if challenged in state court, but being in the opposite position in federal court.

There is also a division of authority among federal courts on this issue. Shortly after the Ninth Circuit issued its *Vincent* opinion, the District Court for the Eastern District of Pennsylvania came to the opposite conclusion,

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[1]Sussli v. City of San Mateo (1981) 120 Cal.App.3d 1, 5.

[2]Pennsylvania and Alaska, Frumer v. Cheltenham Tp. (1982) 545 F.Supp. 1292 and Brayton v. City of Anchorage (1963) 386 P.2d 832.

finding that a virtually identical ordinance was a valid time, place and manner restriction, *Frumer v. Cheltenham Tp.* (1982) 545 F.Supp. 1292.

Indeed, the Ninth Circuit's opinion appears to be inconsistent with this Court's decision in *Lehman v. City of Shaker Heights* (1974) 418 U.S. 298, which recognized that allowing political posters to be placed upon public property brings into question the neutrality of the government and its officials.

This Court has noted that "each method of communicating ideas is a 'law unto itself' and that law must reflect the 'differing natures, values, abuses and dangers' of each method."[3] Having ruled on many other methods of communication,[4] the time is opportune for the Supreme Court to consider the unusual aesthetic and safety concerns which arise when temporary signs are allowed to be placed on public property and in the public rights-of-way.

## CONCLUSION

The questions presented in the Jurisdictional Statement are so substantial as to require plenary consideration, with briefs on the merits and oral argument for their resolution. For these reasons, this Court should note probable jurisdiction of the appeal.

DATED: December, 1982

Respectfully submitted,
WILLIAM R. GALSTAN
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City of Antioch
*Attorney for Amicus Curiae*

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[3]Metrodemia, Inc. v. San Diego (1981) 453 U.S. 490, 501.
[4]Metromedia, *supra*, at pp. 500, 501.